

REMARKS/ARGUMENTS

Claims 33-60 are currently pending in the present application, and Claims 1-32 and 61-87 have been withdrawn as a result of a restriction requirement. As will be explained in further detail below, independent Claims 33 and 57 have been amended for clarification and to further distinguish the cited references. Claims 1-32, 45, and 61-87 have been canceled. In light of the amendments and subsequent remarks, Applicants respectfully request reconsideration and allowance of the claims.

In the Office Action, the Examiner objects to the specification for allegedly failing to provide proper antecedent basis for Claims 45, 52, and 59 in the specification under 37 C.F.R. §1.75(d)(1). Applicants have canceled Claim 45 but disagree that Claims 52 and 59 lack antecedent basis in the specification. Regarding Claim 52, which recites that the longitudinally extending channels of the outer tubular member are configured to receive an optical scope, Applicants refer the Examiner to page 5, line 29 – page 6, line 5 of the present application which discloses that “one such channel could accommodate an ultra thin scope while an alternative channel receives a guidewire, syringe systems, etc. Principally, these channels are suitable for receiving a number of other tools that a physician may need during deployment of a therapeutic medical appliance or therapeutic treatment of target tissue.” Furthermore, page 5, lines 21-23 and page 13, lines 5-7 provide support for Claim 59, which recites that the housing contains one or more therapeutic medical appliances, where the specification discloses that “the delivery device in alternative embodiments may be reloaded by attaching removable medical appliance containing housings thereto” and that “a housing containing additional therapeutic medical appliances can be coupled with the device to form a reloadable delivery device.” Thus, Applicants respectfully submit that clear support and antecedent basis are provided for Claims 52 and 59 in the specification per 37 C.F.R. §1.75(d)(1).

Moreover, the Examiner rejects Claims 33, 34, 43, 46, 48-50, and 54-57 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,137,993 to Acosta et al. in view of U.S. Patent No. 4,795,434 to Kujawski. The Examiner rejects the remaining dependent claims over Acosta and Kujawski in view of various secondary references.

Independent Claim 33 is directed to a device for allowing a user to deploy a plurality of therapeutic medical appliances in an anatomical lumen of a patient. The device includes a longitudinally extending outer tubular member having distal and proximal ends and an interior and exterior surface. The outer tubular member defines a lumen longitudinally extending substantially the distance from the distal end to the proximal end of the outer tubular member and forms a longitudinal expanse there between. Running parallel to the longitudinal expanse are a plurality of grooves, wherein the longitudinal expanse forms a lumen there through, and the outer tubular member has a tip coupled with the distal end. The device further includes a plurality of tracks complementary and slidably coupled with the grooves such that the tracks and the grooves are linearly displaceable with respect to the other. The tracks have proximal and distal ends and a plurality of tabs spaced at a functional distance apart from one another between the proximal and distal ends thereof, and the tabs face toward the lumen of the outer tubular member. In addition, the device includes a handle coupled with a portion of the outer tubular member. Independent Claim 57 includes similar recitations with the exception that the device does not include a tip coupled to the outer tubular member and includes a single track slidably coupled with the groove.

The Examiner relies on the embodiment shown in FIGS. 43A-B of Acosta as allegedly disclosing an outer tubular member (outer sheath 380) and a plurality of tracks (sheath 184) complementary and slidably coupled to the outer tubular member. In addition, the Examiner argues that the sheath 184 includes a plurality of tabs (lobes 376, 378) facing toward the lumen of the outer sheath 380. The Examiner acknowledges that Acosta does not disclose a plurality of grooves running parallel to the longitudinal expanse but, instead, relies on Kujawski. With reference to FIG. 7, Kujawski discloses an outer tube 17 and a sliding middle tube 15 disposed therein. In addition, Kujawski discloses that the middle tube 15 includes a pair of ears 36 that are configured to slide within a pair of opposing channels 37 in the outer tube 17.

In order to further distinguish the cited references, Applicants have amended independent Claims 33 and 57 to recite that each track includes a plurality of tabs spaced axially between the proximal and distal ends thereof and that each tab is configured to engage at least one therapeutic medical appliance. In contrast, Acosta discloses that a pair of tabs (376, 378) are diametrically

opposed from one another at a distal end of the sheath (184) (see FIG. 43A). Thus, Acosta does not disclose that the sheath includes a plurality of tabs spaced axially apart from one another that are each configured to engage at least one therapeutic medical appliance.

Although FIGS. 45A-E of Acosta disclose a plurality of engagement structures 402, 408, only the semi-tube 406 is axially displaceable with respect to the sheath, while the engagement elements 402 are fixed. In particular, Acosta discloses: "As semitube 406 is retracted, fixed engagement elements 402 prevent prostheses 182 from being pulled proximally through sheath 184. Semitube 406 is then pushed distally, wherein engagement structures 408 advance prostheses 182 distally through sheath 184." Col. 28, lines 17-21. As such, Acosta does not teach or suggest that the engagement elements 402 are associated with a semi-tube or other member that is slidably coupled with the outer sheath 184. Thus, Acosta does not teach or suggest a plurality of tracks complementary and slidably coupled with the grooves such that the tracks and the grooves are linearly displaceable with respect to the other, as recited by Claims 33 and 57. Therefore, neither Acosta nor any of the remaining cited references taken alone or in combination teaches or suggests independent Claims 33 and 57.

In view of the remarks and amendments presented above, it is respectfully submitted that Claims 33-60 of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. The Examiner is requested to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

The patentability of the independent claims has been argued as set forth above and thus Applicants will not take this opportunity to argue the merits of the rejection with regard to the dependent claims. However, Applicants do not concede that the dependent claims are not independently patentable and reserve the right to argue the patentability of the dependent claims at a later date if necessary.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR §1.136(a), and any fee required

Appl. No.: 10/567,508
Amdt. dated February 23, 2009
Reply to Office Action of November 25, 2008

therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 50-2764.

Respectfully submitted,



Trent A. Kirk
Registration No. 54,223

Customer No. 000037305
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON February 23, 2009.